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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,882	10/09/2003	James W. Lane	KCC.101	9580
24062	7590	11/28/2005	EXAMINER	
CAMORIANO & ASSOCIATES 8225 SHELBYVILLE ROAD LOUISVILLE, KY 40222			LAUX, JESSICA L	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/681,882	Applicant(s) LANE ET AL.	
	Examiner Jessica Laux	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-9 and 12 is/are rejected.
- 7) ☒ Claim(s) 3-6,10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to Claim 1:

Line 9 –The examiner interprets “a bent portion” to be only one bent portion.

Lines 11 – It is unclear how a bent portion and a second panel define a tab. The examiner interprets this to mean “one of said bent portion defining a tab having a first end secured...” for the purposes of examination.

Line 12 – It is unclear whether the first panel containing the bent portion or the second panel is the “respective” panel. For the purposes of examination the examiner interprets the respective panel to be the first panel containing the bent portion.

Lines 15 – It is unclear what “the other of said bent portion” is as there is previously only one bent portion. For the purposes of examination the examiner will assume that line 9 should read “having bent portions at its first and second ends at right angles...” , allowing line 15 to be understood.

Lines 15-16 – It is also unclear how the other said bent portion and second panel define a strap. The examiner interprets this to mean “the other of said second adjacent exterior planar panel defining a strap having first...” for the purposes of examination.

In line 16 it is unclear whether the second adjacent panel or the first panel having the bent portion is the "respective panel". For the purposes of examination the examiner interprets the respective panel to be the second adjacent panel.

In regards to Claim 7:

Lines 15-16 – It is unclear how a bent portion and its respective adjacent end panel define a tab. The examiner interprets this mean "wherein one of said respective bent portion defines a tab having a first end..." for the purposes of examination.

Line 16-17 – It is unclear whether the "respective panel" that the tab is secured to is the adjacent end panel or the side panel having the bent portion. The examiner interprets the side panel to be the respective panel for the purposes of examination.

Lines 18-20 – It is unclear how the other of said bent portion and said end panel define a strap. The examiner interprets this to mean "and wherein the said end panel defines a strap having first and second ends..." for the purposes of examination.

Line 20 – It is unclear whether the side panel having the bent portion or the end panel is the "respective panel". The examiner interprets the end panel to be the respective panel for the purposes of examination.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 recites the limitation "one panel" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 7-9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (6041557).

In regards to Claims 1 and 7: Brown teaches a roof curb having panels with top, bottom, interior and exterior surfaces and a first and second end (Figure 1). The side panels have a perpendicular edge that has a tab connected at one end with a protrusion (Figure 5, elements 48 and 50). The end panels have slots with ends secured to the panel and a middle section that is offset from the panel so as to receive the tab from the side panel (Figure 5, elements 44 and S). The end panels are connected to the side panels by inserting the tab into the slot. Brown does not teach a slot with an opening sized to receive the protrusion from the tab. Brown does teach a tab with a protrusion wherein once the tab is inserted into the slot the protrusion abuts the bottom edge of the slot so as to releasably retain the tab in the slot (Col. 2, lines 22-25; Col. 5, lines 35-40; Col. 6, lines 9-10). The applicant has not provided criticality for the slot to have an opening versus an edge to retain the protrusion. Therefore the examiner considers the protrusion and tab retaining means as taught by Brown to serve the same function as the projection and tab retaining means as in the claimed invention.

In regards to Claim 2: Brown teaches a structure as in Claim 1 above having a plurality of tabs oriented in the same direction and a plurality of slots to secure the adjacent panels (Figure 5).

In regards to Claim 8: Brown teaches a structure as in Claim 7 above with the tabs being located on the perpendicular edge of a panel and the slots being located on the end panels (Figure 58).

In regards to Claim 9: Brown teaches a structure as in Claims 7 and 8 above having some panels with intermediate straps and some panels having bent ends with tabs to be placed in the intermediate straps (Figure 1, 3 and Col. 5, line 55 thru Col. 6, line 3).

In regards to Claim 12: Brown teaches a roof curb with side and end panels connected at the corners with tabs that are inserted into slots (Figure 5).

Allowable Subject Matter

Claims 3-6 and 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL 11/16/2005



Carl D. Friedman
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